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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,639	05/09/2001	William E. Adams IV	010629	3602

7590

09/30/2002

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EXAMINER

SZUMNY, JONATHON A

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/851,639

Applicant(s)

ADAMS, WILLIAM E. 

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

This is the third office action for application number 09/851,639, Suction Holder for Razor, filed on May 9, 2001.

In view of the Appeal Brief filed on August 12, 2002, PROSECUTION IS HEREBY REOPENED. A new non-final rejection follows.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this office action is non-final) or a reply under 37 CFR 1.113 (if this office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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With respect to claim 11, it appears the "flag" has been doubly included in lines 1 and 4. In order to alleviate this rejection, the applicant could, for example, in line 1, change "A holder and flag" to --A holder and flag device--.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent number 5,961,087 to Lee.

Lee '087 discloses a holder and flag (figure 2) comprising a suction cup (10) having cup and neck portions (figure 1), wherein the neck has a transverse bore (figure 2) having a multi-sided cross section, and a flag (100,101) having a display portion (101) attached to a pole (figure 1), a portion of the pole having a multi-sided cross section complementary to that of the bore and fitted within the bore so it can be rotated therein so that in each position every side of the portion of the pole is opposite a side of the bore.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rendall '996 in view of U.S. Patent number 2,638,296 to Battle.

Regarding claims 1, 2 and 6, Rendall '996 reveals a holder (figure 2) comprising a magnetic device having a magnet (38) and a neck with at least one bore comprising a single bore passing therethrough, and a split ring having two ends each fitted within the bore and each having a cross section complementary to that of the bore such that the split ring can be rotated within the bore from a first position to a second position such that in each position every side of the end of the split ring is opposite a side of the at least one bore. However, Rendall '996 fails to specifically teach the magnetic device to be a suction cup having a cup portion and a neck containing at least one bore.

Figure 7 of Rendall '996 divulges a holder comprising a rubber suction cup (103) having a cup portion and a neck with at least one bore and a split ring having two ends each fitted within the bore and each having a cross section complementary to that of the bore such that the split ring can be rotated within the at least one bore from a first position to a second position such that in each position every side of the end of the split ring is opposite a side of the at least one bore. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced the

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magnetic device with a suction cup so as to reduce weight and manufacturing costs, in addition to providing for an alternate mounting means.

Moreover, Rendall '996 fails to specifically teach the cross sections of the at least one bore and two ends of the split ring to be multi-sided cross-sections.

Battle '296 divulges a holder (figure 3) wherein the ability to more securely maintain an adjusted position between an object of circular cross section and a rubber neck with a bore having a complementary circular cross section is increased if the aforementioned complementary cross sections are modified so as to be complementary square cross sections (or each having complementary cross sections with a greater number of sides than a square cross section, column 4, lines 43-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the cross sections of the ends of the split ring and the at least one bore of Rendall '996 to be square cross sections as in Battle '296 so as to provide for a more sturdy holder by allowing the split ring to be more securely maintained in a desired position.

With respect to claims 3 and 4, Rendall '996 in view of Battle '296, as previously mentioned, teach that the square cross sections could additionally have more sides than that of a square, but fail to *specifically* teach the cross-sections to be hexagonal or octagonal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the cross-sections of the at least one bore and the ends of the split ring to be any of a number of different shapes, including hexagonal and octagonal, so as to provide an increased number of sturdy adjustment positions (as

compared to the holder with circular cross sections) hence increasing the utility of the holder.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rendall '996 in view of Battle '296, and further in view of Adams '865.

Rendall '996 in view of Battle '296 divulge the previous invention failing to specifically teach the suction cup to specifically be made of soft vinyl or the ring to comprise polypropylene or polycarbonate. However, Adams '865 teaches a holder having a soft vinyl suction cup (column 4, lines 10-11) and a polycarbonate ring (column 3, lines 64-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the suction cup and ring of Moore '271 in view of Rendall '996, and further in view of Roberts '734 of soft vinyl and polycarbonate, respectively, as in Adams '865 so as to provide for improved gripping strength of the suction cup, and to provide for a resilient but sturdy ring.

Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rendall '996 in view of U.S. Patent number 2,638,296 to Battle.

Regarding claims 1, 2 and 7, Rendall '996 reveals a holder (figure 7) comprising a rubber suction cup (103) having a cup portion and a neck with at least one bore comprising a pair of bores on a common axis wherein each bore extends from an outer surface of the neck toward a center of the neck so that a web separates the two bores, and a split ring having two ends each fitted within the bore and each having a cross section complementary to that of the bore such that the split ring can be rotated within the at least one bore from a first position to a second position such that in each position

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every side of the end of the split ring is opposite a side of the at least one bore.

However, Rendall '996 fails to specifically teach the cross sections of the at least one bore and two ends of the split ring to be multi-sided cross-sections.

Battle '296 divulges a holder (figure 3) wherein the ability to more securely maintain an adjusted position between an object of circular cross section and a rubber neck with a bore having a complementary circular cross section is increased if the aforementioned complementary cross sections are modified so as to be complementary square cross sections (or each having complementary cross sections with a greater number of sides than a square cross section, column 4, lines 43-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the cross sections of the ends of the split ring and the at least one bore of Rendall '996 to be square cross sections as in Battle '296 so as to provide for a more sturdy holder by allowing the split ring to be more securely maintained in a desired position.

With respect to claims 3 and 4, Rendall '996 in view of Battle '296, as previously mentioned, teach that the square cross sections could additionally have more sides than that of a square, but fail to *specifically* teach the cross-sections to be hexagonal or octagonal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the cross-sections of the at least one bore and the ends of the split ring to be any of a number of different shapes, including hexagonal and octagonal, so as to provide an increased number of sturdy adjustment positions (as



compared to the holder with circular cross sections) hence increasing the utility of the holder.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rendall '996 in view of Battle '296, and further in view of Adams '865.

Rendall '996 in view of Battle '296 divulge the previous invention failing to specifically teach the rubber suction cup to specifically be made of soft vinyl or the ring to comprise polypropylene or polycarbonate. However, Adams '865 teaches a holder having a soft vinyl suction cup (column 4, lines 10-11) and a polycarbonate ring (column 3, lines 64-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the suction cup and ring of Rendall '996 in view of Battle '296 of soft vinyl and polycarbonate, respectively, as in Adams '865 so as to provide for improved gripping strength of the suction cup, and to provide for a lightweight, inexpensive and sturdy ring.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams '356 in view of Battle '296.

Adams '356 discloses a holder (figure 3) comprising a suction cup (26) having cup and neck portions, the neck containing a transverse bore, and a J-hook (18) having two ends, a portion thereof, having a head adjacent thereof, being fitted within the bore so that the hook can be rotated within the bore from a first position to a second position such that in each position every side of the portion of the hook is opposite a side of the bore. However, Adams '356 fails to specifically teach the cross sections of the bore and

the portion of the hooked fitted within the bore to be complementary multi-sided cross sections.

Battle '296 divulges a holder (figure 3) wherein the ability to more securely maintain an adjusted position between an object of circular cross section and a rubber neck with a bore having a complementary circular cross section is increased if the aforementioned complementary cross sections are modified so as to be complementary square cross sections (or each having complementary cross sections with a greater number of sides than a square cross section, column 4, lines 43-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the cross sections of the portion of the J-hook being fitted within the transverse bore and the transverse bore of Adams '356 to be square cross sections as in Battle '296 so as to provide for a more sturdy holder by allowing the J-hook to be more securely maintained in a desired position.

### ***Response to Arguments***

Applicant's arguments filed August 12, 2002 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Regarding the rejection of claim 11 under 35 U.S.C. 112-2<sup>nd</sup> paragraph, the applicant avers that "The claim does not contain a double inclusion of a flag." The

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Examiner disagrees. The Examiner has kindly provided a simple means to rectify the 112-2<sup>nd</sup> paragraph rejection.

Continuing, regarding the rejection of claim 11 under 35 U.S.C. 102(e) as being anticipated by Lee '087, the applicant alleges, on the bottom of page 6 and top of page 7 of the remarks, "Consequently, this structure does not meet the requirement of claim 11 for a 'transverse bore having a multi-sided cross-section' of a 'portion of said pole having a multi-sided cross-section.' " The Examiner disagrees. Clearly, as shown in figure 1 of Lee '087 as provided by the Examiner, the flag (100,101) having a display portion (101), is in fact attached to a pole (figure 1, "a long slender object," as defined in Merriam-Webster's Collegiate Dictionary - 10<sup>th</sup> edition), and a portion of the pole does in fact have a multi-sided cross section (shown in figure 2 of Lee '087).

Further, in the first full paragraph of page 7, the applicant contends "if element 100 is not regarded as the pole, then the structure in Lee does not have "a flag having a display portion attached to a pole," as required by claim 11. The Examiner disagrees. Element 100 is in fact supporting the display portion 101, and hence the Examiner is considering the combination of element 100 and element 101 as the "flag." Consequently, the "flag" is in fact attached to a pole (identified as "80").

Further, on the rest of page 7, the applicant essentially contends that because the balls of the pole/rotor/long slender object (which do in fact mate with grooves of the bore of the neck of the suction cup) are a so-called (by the applicant) "variable structure", and further because the 4 sides of the pole/rotor/long slender object do not exactly mate with the 32 sides of the bore, the cross sections are not complementary,

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and the pole does not in fact have a multi-sided cross section. The Examiner clearly disagrees. The applicant continues by admitting on the top of page 8 that the pole/rotor/long slender object does in fact have 4 sides. Four sides are greater than one side, and hence the pole/rotor/long slender object has a multi-sided cross section.

Continuing the applicant asserts, "when the ball is not in a slot, there is no side of the purported pole structure opposite the two sides of the slot." The Examiner disagrees. The advantage of the invention of Lee '087 is just the opposite of the applicant's allegation. It is not necessary for the pole/rotor/long slender object to be removed from the bore; the pole/rotor/long slender object only needs to be rotated within the bore such that every side of the pole/rotor/long slender object is opposite a side of the bore. It is not understood why the applicant continues to assert that the sides of the pole/rotor/long slender object are not opposite from the sides of the slot/pole. As defined in the Merriam-Webster's Collegiate Dictionary - 10<sup>th</sup> edition, "opposite" is defined as "occupying an opposing position." Clearly, the sides of pole/rotor/long slender object occupy an opposing position from the sides of the bore.

Moreover, the applicant claims, "those skilled in the art would not regard element 80 in Lee as a pole." The Examiner disagrees. As interpreted by the Examiner, element 80 is in fact long and slender, as defined in the Merriam-Webster's Collegiate Dictionary - 10<sup>th</sup> edition.

In the third paragraph of page 8 of the remarks, the applicant avers that the element as recited by the Examiner to be the neck is in fact not such. The Examiner disagrees, again. As defined in the Merriam-Webster's Collegiate Dictionary - 10<sup>th</sup>

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edition, a "neck" is a "a *relatively* narrow part suggestive of a neck." Clearly, compared and relative to the cup portion of the suction cup, the neck is in fact "relatively" narrow, and hence the applicant's allegation to the contrary is incorrect.

Finally, the applicant claims that the bore is not "transverse." On the top of page 9, the applicant asserts, "...he (Examiner) then concludes that an axial bore from the top is in fact 'transverse.' This is wrong." It is requested that the applicant provides support as to the exact location of this conclusion as purportedly stated by the Examiner.

Further it is not understood how can the applicant deny that the bore lies from one side of the neck to the other side (the definition of "transverse" as previously stated from the Merriam-Webster's Collegiate Dictionary - 10<sup>th</sup> edition). Upon inspection of figures 1 and 2 of Lee '087, it seems clear to the Examiner that the bore could in fact be considered "transverse," and again the applicant's allegation to the contrary is mistaken.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoffmann '696, Aarons '775, Geisthoff '570 and Laughlin et al. '061 divulge various holders and complementary multi-sided cross sections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

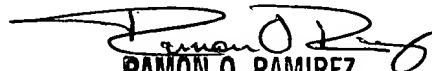
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The fax phone number for the organization where this application and proceeding are assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny  
Patent Examiner  
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Art Unit 3632  
September 24, 2002



RAMON O. RAMIREZ  
PRIMARY EXAMINER  
ART UNIT ~~355~~ 3632

Fig. 1

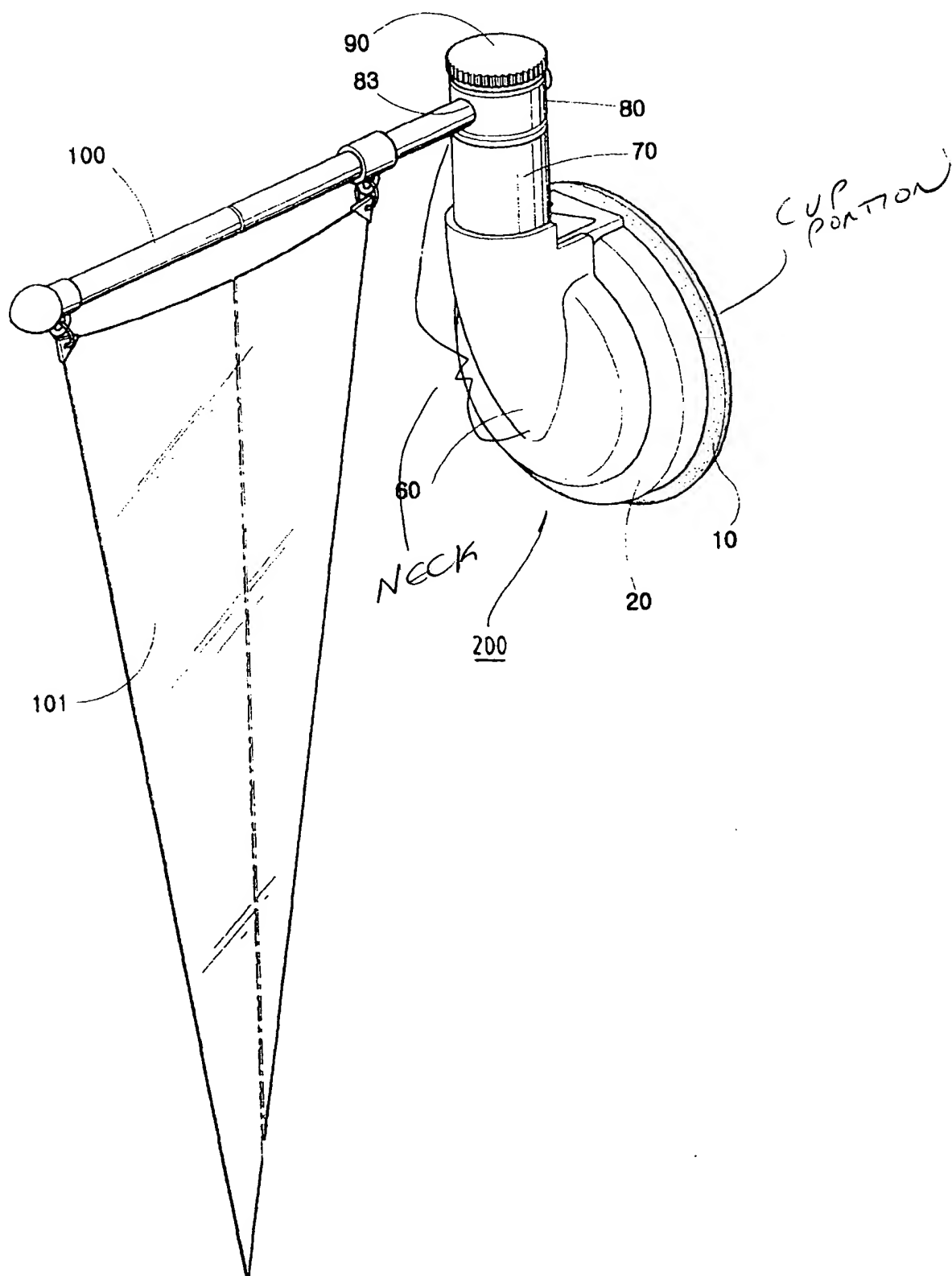


Fig.2

